

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

QUILLON EDWARD CLEMONS,

Plaintiff,

V.

SHERIFF PAUL PASTOR, MARTHA KARR, JUDY SNOW, ERIKA ZIMMERMAN, and MARY SCOTT,

Defendants.

No. C10-5235 RJB/KLS

**ORDER TO SHOW CAUSE OR FILE AN
AMENDED COMPLAINT**

On December 22, 2010, Plaintiff was granted leave to file an amended complaint to state facts as to his claims relating to: (1) medical care; (2) temperature in his cell; (3) sanitary conditions of his cell; (4) excessive noise; and (5) failure to train subordinates. ECF No. 43. Plaintiff was advised that his amended complaint should state facts relating to these claims only and that he is required to show how each defendant personally participated in the alleged violation of his constitutional rights. Plaintiff was given until January 14, 2011 to file his amended complaint. *Id.* On January 9, 2011, Plaintiff submitted a 34 page “Report and Brief in Support of a § 1983 Civil Action.” ECF No. 46. The filing consists almost entirely of legal citations and conclusions.

Plaintiff shall be directed to show cause **on or before February 11, 2011**, stating why he has not complied with the court's order to file an amended complaint and why this matter should not be dismissed. Alternatively, Plaintiff may file an amended complaint on or before **February 11, 2011**. If Plaintiff chooses to file an amended complaint, he must set forth in the amended

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1 complaint, all of the facts and claims for relief related to his claims of: (1) lack of medical care;
2 (2) temperature in his cell; (3) sanitary conditions of his cell; (4) excessive noise; and (5) failure
3 to train subordinates. Plaintiff shall set forth his factual allegations in separately numbered
4 paragraphs and shall allege with specificity the following:

5 (1) the names of the persons who caused or personally participated in causing the
6 alleged deprivation of his constitutional rights;
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8 (2) the dates on which the conduct of each Defendant allegedly took place; and
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10 (3) the specific conduct or action Plaintiff alleges is unconstitutional.

11 An amended complaint operates as a complete substitute for (rather than a mere
12 supplement to) the present complaint. In other words, an amended complaint supersedes the
13 original in its entirety, making the original as if it never existed. Therefore, reference to a prior
14 pleading or another document is unacceptable – once Plaintiff files an amended complaint, the
15 original pleading or pleadings will no longer serve any function in this case. *See Loux v. Rhay*,
16 375 F.2d 55, 57 (9th Cir. 1967) (as a general rule, an amended complaint supersedes the prior
17 complaint). Therefore, in an amended complaint, as in an original complaint, each claim and the
18 involvement of each defendant must be sufficiently alleged.

19 Plaintiff **shall present his complaint on the form provided by the court**. The amended
20 complaint must be legibly rewritten or retyped in its entirety, it should be an original and not a
21 copy, it may not incorporate any part of the original complaint by reference, and it must be
22 clearly labeled the “Amended Complaint” and must contain the same cause number as this case.
23 Plaintiff should complete all sections of the court’s form. Plaintiff may attach continuation
24 pages as needed but may not attach a separate document that purports to be his amended
25 complaint. In order to make a short and plain statement of claims against the defendants,
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1 plaintiff should include factual allegations that explain how each named defendant was involved
2 in the denial of his rights. The court will screen the amended complaint to determine whether it
3 contains factual allegations linking each defendant to the alleged violations of Plaintiff's rights.
4 The court will not authorize service of the amended complaint on any defendant who is not
5 specifically linked to the violation of Plaintiff's rights.
6

7 Accordingly, it is **ORDERED**:

8 (1) If Plaintiff decides to file an amended civil rights complaint in this action, he is
9 cautioned that if the amended complaint is not timely filed or if he fails to adequately address the
10 issues raised herein on or before **February 11, 2011**, the court will recommend dismissal of this
11 action as frivolous as to the unnamed defendants, pursuant to 28 U.S.C. § 1915.

12 (2) **The Clerk is directed to send to Plaintiff the appropriate form for filing a 42**
13 **U.S.C. 1983 civil rights complaint, a copy of this Order and a copy of the General Order.**
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16 DATED this 19th day of January, 2011.

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19 Karen L. Strombom
20 United States Magistrate Judge
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